

he does not have diabetic retinopathy. He holds a Class A CDL from Maine.

*Danny J. Watson*

Mr. Watson, 45, has had ITDM since 1978. His endocrinologist examined him in 2008 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; and has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Watson meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2008 and certified that he does not have diabetic retinopathy. He holds a Class D operator's license from Kentucky.

*Eric W. Williams*

Mr. Williams, 52, has had ITDM since 2005. His endocrinologist examined him in 2008 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; and has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Williams meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2008 and certified that he does not have diabetic retinopathy. He holds a Class C operator's license from Maryland.

*Russell A. Williams*

Mr. Williams, 62, has had ITDM since 2005. His endocrinologist examined him in 2008 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; and has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Williams meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2008 and certified that he has stable proliferative diabetic retinopathy. He holds a Class A CDL from Wisconsin.

*Kimberly A. Woehrman*

Ms. Woehrman, 44, has had ITDM since 2001. Her endocrinologist

examined her in 2008 and certified that she has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; and has stable control of her diabetes using insulin, and is able to drive a CMV safely. Ms. Woehrman meets the requirements of the vision standard at 49 CFR 391.41(b)(10). Her ophthalmologist examined her in 2008 and certified that she does not have diabetic retinopathy. She holds a Class A CDL from Kansas.

**Request for Comments**

In accordance with 49 U.S.C. 31136(e) and 31315, FMCSA requests public comment from all interested persons on the exemption petitions described in this notice. We will consider all comments received before the close of business on the closing date indicated in the date section of the Notice.

FMCSA notes that Section 4129 of the Safe, Accountable, Flexible and Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) requires the Secretary to revise its diabetes exemption program established on September 3, 2003 (68 FR 52441).<sup>1</sup> The revision must provide for individual assessment of drivers with diabetes mellitus, and be consistent with the criteria described in section 4018 of the Transportation Equity Act for the 21st Century (49 U.S.C. 31305).

*Section 4129 requires:* (1) the elimination of the requirement for three years of experience operating CMVs while being treated with insulin; and (2) the establishment of a specified minimum period of insulin use to demonstrate stable control of diabetes before being allowed to operate a CMV.

In response to section 4129, FMCSA made immediate revisions to the diabetes exemption program established by the September 3, 2003 Notice. FMCSA discontinued use of the 3-year driving experience and fulfilled the requirements of section 4129 while continuing to ensure that operation of CMVs by drivers with ITDM will achieve the requisite level of safety required of all exemptions granted under 49 USC. 31136 (e).

Section 4129(d) also directed FMCSA to ensure that drivers of CMVs with ITDM are not held to a higher standard than other drivers, with the exception of

limited operating, monitoring and medical requirements that are deemed medically necessary. FMCSA concluded that all of the operating, monitoring and medical requirements set out in the September 3, 2003 Notice, except as modified, were in compliance with section 4129(d). Therefore, all of the requirements set out in the September 3, 2003 Notice, except as modified by the Notice in the **Federal Register** on November 8, 2005 (70 FR 67777), remain in effect.

Issued on: December 5, 2008.

**Larry W. Minor,**

*Associate Administrator for Policy and Program Development.*

[FR Doc. E8-29418 Filed 12-11-08; 8:45 am]

**BILLING CODE 4910-EX-P**

**DEPARTMENT OF TRANSPORTATION**

**Federal Motor Carrier Safety Administration**

**[Docket ID FMCSA-2008-0340]**

**Qualification of Drivers; Exemption Applications; Vision**

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.

**ACTION:** Notice of applications for exemptions; request for comments.

**SUMMARY:** FMCSA announces receipt of applications from 24 individuals for exemptions from the vision requirement in the Federal Motor Carrier Safety Regulations. If granted, the exemptions would enable these individuals to qualify as drivers of commercial motor vehicles (CMVs) in interstate commerce without meeting the Federal vision standard.

**DATES:** Comments must be received on or before January 12, 2009.

**ADDRESSES:** You may submit comments bearing the Federal Docket Management System (FDMS) Docket ID FMCSA-2008-0340 using any of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12-140, Washington, DC 20590-0001.
- *Hand Delivery:* West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* 1-202-493-2251.

<sup>1</sup> Section 4129(a) refers to the 2003 Notice as a "final rule." However, the 2003 Notice did not issue a "final rule" but did establish the procedures and standards for issuing exemptions for drivers with ITDM.

Each submission must include the Agency name and the docket ID for this Notice. Note that DOT posts all comments received without change to <http://www.regulations.gov>, including any personal information included in a comment. Please see the Privacy Act heading below.

**Docket:** For access to the docket to read background documents or comments, go to <http://www.regulations.gov> at any time or Room W12-140 on the ground level of the West Building, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The FDMS is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

**Privacy Act:** Anyone may search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19476). This information is also available at <http://Docketsinfo.dot.gov>.

**FOR FURTHER INFORMATION CONTACT:** Dr. Mary D. Gunnels, Director, Medical Programs, (202) 366-4001, [fmcsamedical@dot.gov](mailto:fmcsamedical@dot.gov), FMCSA, Department of Transportation, 1200 New Jersey Avenue, SE., Room W64-224, Washington, DC 20590-0001. Office hours are from 8:30 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption for a 2-year period if it finds "such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption." FMCSA can renew exemptions at the end of each 2-year period. The 24 individuals listed in this notice each have requested an exemption from the vision requirement in 49 CFR 391.41(b)(10), which applies to drivers of CMVs in interstate commerce. Accordingly, the Agency will evaluate the qualifications of each applicant to determine whether granting the exemption will achieve the required level of safety mandated by statute.

#### **Qualifications of Applicants**

##### *Bryant M. Adams*

Mr. Adams, age 43, has had amblyopia in his left eye since childhood. The best corrected visual acuity in his right eye is 20/20 and in the left eye, 20/200. Following an examination in 2008, his optometrist noted, "I certify that in my medical opinion, Bryant Adams has sufficient vision to perform the driving tasks required to operate a commercial vehicle." Mr. Adams reported that he has driven straight trucks for 13½ years, accumulating 120,150 miles. He holds a Class C operator's license from California. His driving record for the last 3 years shows no crashes and two convictions for moving violations in a CMV, failure to obey traffic signals.

##### *Ricky J. Childress*

Mr. Childress, 60, has complete loss of vision in his right eye due to retinal detachment since 2001. The best corrected visual acuity in his left eye is 20/30. Following an examination in 2008, his ophthalmologist noted, "In my opinion, Mr. Childress has sufficient vision to perform driving tasks required to operate a commercial vehicle, based on how he has performed and functioned exceedingly well in his field despite vision." Mr. Childress reported that he has driven straight trucks for 10 years, accumulating 437,500 miles, and tractor-trailer combinations for 15 years, accumulating 2.3 million miles. He holds a Class D operator's license from Alabama. His driving record for the last 3 years shows one crash, and no convictions for moving violations in a CMV.

##### *Thomas A. Crowell*

Mr. Crowell, 50, has a ruptured globe in his right eye due to a traumatic injury sustained as a child. The best corrected visual acuity in his right eye is 20/400 and in the left, 20/20. Following an examination in 2008, his ophthalmologist noted, "I certify that Thomas Crowell has sufficient vision to perform driving tasks required to operate a commercial vehicle." Mr. Crowell reported that he has driven straight trucks for 2 years, accumulating 60,000 miles, and tractor-trailer combinations for 4 years, accumulating 495,496 miles. He holds a Class A Commercial Driver's License (CDL) from North Carolina. His driving record for the last 3 years shows one crash, for which he was not cited, and one conviction for a moving violation in a CMV: failure to obey a traffic sign.

##### *Henry L. Decker*

Mr. Decker, 58, has had refractive amblyopia in his left eye since birth. The best corrected visual acuity in his right eye is 20/20 and in the left, 20/200. Following an examination in 2008, his ophthalmologist noted, "In my opinion, Mr. Decker has sufficient vision to perform the driving tasks to operate a commercial vehicle." Mr. Decker reported that he has driven straight trucks for 40 years, accumulating 600,000 miles, tractor-trailer combinations for 7 years, accumulating 59,500 miles, and buses for 6 months, accumulating 1,800 miles. He holds a Class B CDL from Pennsylvania. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

##### *Thomas E. Dewitt, Jr.*

Mr. Dewitt, 47, has had amblyopia in his right eye since birth. The best corrected visual acuity in his right eye is 20/50 and in the left, 20/20. Following an examination in 2008, his optometrist noted, "In my medical opinion, applicant has sufficient vision to perform driving tasks required to operate a commercial vehicle." Mr. Dewitt reported that he has driven straight trucks for 12 years, accumulating 156,000 miles. He holds a Class A CDL from Ohio. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

##### *David L. Dykman*

Mr. Dykman, 48, has complete loss of vision in his right eye due to traumatic injury that occurred in 2002. The visual acuity in the left eye is 20/20. Following an examination in 2008, his ophthalmologist noted, "It is my medical opinion that David has sufficient vision to perform the driving tasks required to operate a commercial vehicle." Mr. Dykman reported that he has driven straight trucks for 19½ years, accumulating 163,800 miles, and tractor-trailer combinations for 6½ years, accumulating 45,825 miles. He holds a Class B CDL from Idaho. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

##### *Milan D. Frasier*

Mr. Frasier, 58, has loss of vision in his right eye due to retinal detachment that occurred in 2004. The best corrected visual acuity in his right eye is hand-motion vision and in the left, 20/20. Following an examination in 2008, his ophthalmologist noted, "It is my medical opinion that Mr. Frasier has sufficient vision to drive a commercial

vehicle." Mr. Frasier reported that he has driven tractor-trailer combinations for 30 years, accumulating 514,500 miles. He holds a Class A CDL from Idaho. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Wilfred J. Gagnon*

Mr. Gagnon, 72, has complete loss of vision in his right eye due to a traumatic injury that occurred in 2000. The visual acuity in his left eye is 20/20. Following an examination in 2008, his optometrist noted, "In my medical opinion, I believe Mr. Gagnon's vision in his left eye is sufficient to operate a commercial vehicle without glasses." Mr. Gagnon reported that he has driven straight trucks for 54 years, accumulating 1.9 million miles, and tractor-trailer combinations for 30 years, accumulating 1.1 million miles. He holds a Class A CDL from Vermont. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Grady O. Gilliland*

Mr. Gilliland, 82, has loss of vision in his right eye due to optic nerve hypoplasia since birth. The best corrected visual acuity in his right eye is 20/400 and in the left, 20/30. Following an examination in 2008, his ophthalmologist noted, "I feel that he has sufficient vision to perform driving tasks required to operate commercial vehicles knowing that his right eye has always been a poor vision eye all this life." Mr. Gilliland reported that he has driven straight trucks for 64 years, accumulating 320,000 miles. He holds a Class D operator's license from Alabama. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Harold J. Haier*

Mr. Haier, 42, has had amblyopia since birth. The best corrected visual acuity in his right eye is 20/20 and in the left, 20/400. Following an examination in 2008, his optometrist noted, "It is my opinion that Mr. Haier has sufficient vision to operate a commercial vehicle." Mr. Haier reported that he has driven straight trucks for 24 years, accumulating 432,000 miles, tractor-trailer combinations for less than 1 year, accumulating 800 miles, and buses for less than 1 year, accumulating 4,000 miles. He holds a Class A CDL from New York. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Crayton Jones, Jr.*

Mr. Jones, 72, has complete loss of vision in his right eye due to a traumatic injury since childhood. The best corrected visual acuity in his left eye is 20/20. Following an examination in 2008, his ophthalmologist noted, "I certify that in my medical opinion, he has sufficient vision to perform the driving tasks required to operate a commercial vehicle." Mr. Jones reported that he has driven straight trucks for 6 years, accumulating 150,000 miles, tractor-trailer combinations for 6 years, accumulating 150,000 miles, and buses for 1 year, accumulating 1,000 miles. He holds a Class R operator's license from Colorado, which allows him to drive any motor vehicle with a gross weight of less than 26,001 pounds. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Timothy L. Kelly*

Mr. Kelly, 44, has complete loss of vision in his right eye due to a traumatic injury sustained in 1984. The visual acuity in his left eye is 20/20. Following an examination in 2008, his optometrist noted, "In my medical opinion, Tim has sufficient vision to perform the driving tasks required to operate a commercial vehicle." Mr. Kelly reported that he has driven tractor-trailer combinations for 8 years, accumulating 560,000 miles. He holds a Class A CDL from Texas. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Lewis A. Kielhack*

Mr. Kielhack, 35, has a macular scar that caused loss of vision in his right eye due to a traumatic injury sustained in 1990. The best corrected visual acuity in his right eye is 20/400 and in the left eye, 20/20. Following an examination in 2008, his optometrist noted, "In my opinion, Mr. Kielhack has sufficient vision to perform the driving tasks required to operate a commercial vehicle. His vision has been stable for over 18 years, and there is no indication that his vision will change." Mr. Kielhack reported that he has driven straight trucks for 14 years, accumulating 655,200 miles, and tractor-trailer combinations for 8 years, accumulating 24,000 miles. He holds a Class A CDL from Illinois. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*David Lancaster*

Mr. Lancaster, 44, has loss of vision in his left eye due to a central scotoma that occurred as a result of a traumatic

injury sustained in 1990. The visual acuity in his right eye is 20/15 and in the left eye, 20/400. Following an examination in 2008, his optometrist noted, "It is my medical/optometric opinion that David Lancaster has sufficient vision to perform the driving tasks required to operate a commercial vehicle." Mr. Lancaster reported that he has driven straight trucks for 20 years, accumulating 800,000 miles. He holds a Class O operator's license from Nebraska. Class O operator's license allows him to drive any non-commercial vehicle except motorcycles. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Brian M. Madaya*

Mr. Madaya, 48, has a retinal detachment in his right eye since 2004. The best corrected visual acuity in his right eye is 20/400 and in the left eye, 20/20. Following an examination in 2008, his optometrist noted, "Based on his very stable findings over the last several years, I am confident that his vision is completely in line with the Department of Transportation guidelines for operation of commercial motor vehicles." Mr. Madaya reported that he has driven straight trucks for 20 years, accumulating 620,000 miles and tractor-trailer combinations for 7½ years, accumulating 525,000 miles. He holds a Class A CDL from Pennsylvania. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Joe A. McIlroy*

Mr. McIlroy, 49, has a prosthetic left eye due to a traumatic injury sustained in 1988. The best corrected visual acuity in his right eye is 20/15. Following an examination in 2008, his ophthalmologist noted, "In my opinion, Mr. McIlroy has sufficient vision to perform the driving tasks to operate a commercial vehicle." Mr. McIlroy reported that he has driven straight trucks for 28 years, accumulating 56,000 miles, and tractor-trailer combinations for 7 years, accumulating 280,000 miles. He holds a Class A CDL from New York. His driving record for the last 3 years shows no crashes and two convictions for moving violations in a CMV, failure to obey traffic signals.

*Harry J. McSuley, Jr.*

Mr. McSuley, 71, has loss of vision in his left eye due to retinal vein occlusion that occurred in 1998. The best corrected visual acuity in the right eye is 20/20 and in the left eye, 20/200. Following an examination in 2008, his ophthalmologist noted, "In my

professional medical opinion, I feel Harry McSuley has sufficient vision to perform the driving tasks required to operate a commercial vehicle." Mr. McSuley reported that he has driven straight trucks for 55 years, accumulating 1,650,000 miles, and tractor-trailer combinations for 53 years, accumulating 3,445,000 miles. He holds a Class A CDL from Pennsylvania. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Robert S. Metcalf*

Mr. Metcalf, 57, has had amblyopia in his left eye since birth. The visual acuity in his right eye is 20/20 and in the left, 20/300. Following an examination in 2008, his optometrist noted, "Aside from needing glasses for reading, Mr. Metcalf should have not problems driving a commercial vehicle without correction." Mr. Metcalf reported that he has driven straight trucks for 31 years, accumulating 620,000 miles, and tractor-trailer combinations for 28 years, accumulating 1.7 million miles. He holds a Class A CDL from Arizona. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Elmer R. Miller*

Mr. Miller, 64, has complete loss of vision in his left eye due to a traumatic injury sustained in 1986. The best corrected visual acuity in his right eye is 20/30. Following an examination in 2008, his ophthalmologist noted, "I certify that, in my medical opinion, he has sufficient vision to perform the driving tasks required to operate a commercial vehicle." Mr. Miller reported that he has driven straight trucks for 47 years, accumulating 564,000 miles. He holds a Class C operator's license from Illinois. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Richard L. Moreland*

Mr. Moreland, 49, has complete loss of vision in his right eye due to a traumatic injury sustained in 1966. The visual acuity in his left eye is 20/20. Following an examination in 2008, his optometrist noted, "Based on these findings, I feel Richard L. Moreland has the visual abilities to safely continue to operate a commercial motor vehicle in interstate commerce because his visual loss has been present since 1966." Mr. Miller reported that he has driven straight trucks for 23 years, accumulating 230,000 miles. He holds a Class A CDL from Missouri. His driving record for the last 3 years shows no

crashes and no convictions for moving violations in a CMV.

*Stanley J. Morris*

Mr. Morris, 46, has complete loss of vision in his left eye due to a traumatic injury since childhood. The best corrected visual acuity in his right eye is 20/20. Following an examination in 2008, his optometrist noted, "I certify that, in my medical opinion, the applicant's visual deficiency is stable and has sufficient vision to perform the driving tasks required to operate a commercial motor vehicle, and that the applicant's condition will not adversely affect his ability to operate a commercial motor vehicle safely." Mr. Morris reported that he has driven straight trucks for 11 years, accumulating 264,000 miles, and tractor-trailer combinations for 6 years, accumulating 399,000 million miles. He holds a Class A CDL from Missouri. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Barbara C. Pennington*

Ms. Pennington, 45, has a prosthetic right eye due to enucleation following a traumatic injury in 1991. The best corrected visual acuity in her left eye is 20/20. Following an examination in 2008, her ophthalmologist noted, "The vision is stable in her left eye and Ms. Pennington is able to operate a commercial motor vehicle from an ocular standpoint." Ms. Pennington reported that she has driven straight trucks for 1 year, accumulating 50,000 miles, and tractor-trailer combinations for 15 years, accumulating 1.5 million miles. She holds a Class A CDL from Florida. Her driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Ronald M. Scott*

Mr. Scott, 52, has loss of vision in his right eye due to a traumatic injury that occurred in 1984. The visual acuity in his right eye is count fingers and in the left eye, 20/15. Following an examination in 2008, his optometrist noted, "I feel that Mr. Scott has more than sufficient vision in his left eye to perform the driving tasks required to operate a commercial vehicle." Mr. Scott reported that he has driven straight trucks for 30 years, accumulating 2.6 million miles, and tractor-trailer combinations for 30 years, accumulating 3 million miles. He holds a Class A CDL from Indiana. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Jeremichael Steele*

Mr. Steele, 41, has loss of vision in his left eye due to a retinal scar sustained from a traumatic injury as a child. The best corrected visual acuity in his right eye is 20/20. Following an examination in 2008, his optometrist noted, "In my medical opinion, Mr. Steele has sufficient vision to perform the driving tasks to operate a commercial vehicle." Mr. Steele reported that he has driven tractor-trailer combinations for 6 years, accumulating 240,000 miles, and buses for 7 years, accumulating 63,000 miles. He holds a Class A CDL from North Carolina. His driving record for the last 3 years shows no crashes, and one conviction for a moving violation in a CMV; he changed lanes improperly.

**Request for Comments**

In accordance with 49 U.S.C. 31136(e) and 31315, FMCSA requests public comment from all interested persons on the exemption petitions described in this notice. The Agency will consider all comments received before the close of business January 12, 2009. Comments will be available for examination in the docket at the location listed under the **ADDRESSES** section of this notice. The Agency will file comments received after the comment closing date in the public docket, and will consider them to the extent practicable. In addition to late comments, FMCSA will also continue to file, in the public docket, relevant information that becomes available after the comment closing date. Interested persons should monitor the public docket for new material.

Issued on: December 5, 2008.

**Larry W. Minor,**

*Associate Administrator for Policy and Program Development.*

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**DEPARTMENT OF TRANSPORTATION**

**Federal Motor Carrier Safety Administration**

**[Docket No. FMCSA-00-7006; FMCSA-00-7363; FMCSA-01-10570; FMCSA-02-12294; FMCSA-04-18885; FMCSA-06-24783]**

**Qualification of Drivers; Exemption Applications; Vision**

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.

**ACTION:** Notice of renewal of exemptions; request for comments.

**SUMMARY:** FMCSA announces its decision to renew the exemptions from the vision requirement in the Federal